

REMARKS

The Examiner has erroneously objected to the drawings under 37 CFR 1.83(a) alleging that the claimed *space switching* is not illustrated. Looking to Figs. 2-6, the *space switching* is performed by illustrated as HPC device 210 in each of the figures, and is describe in paragraph [0024] as performing "cross connection by space switching". Accordingly, the objection should be withdrawn.

The Examiner has suggested that Fig. 1 be designated by a legend such a --Prior Art--, under the apparent misunderstanding that Fig. 1 illustrates "only that which is old." Fig. 1 is described in the specification under the **DETAILED DESCRIPTION OF THE PREFERRED EMBODIMENT** of the specification. There is no description identifying Fig. 1 as illustrating "only that which is old," as "conventional" nor as "prior art."

Note that Fig. 1 is not prior art. There has been no showing, and the Applicant has never admitted, that Fig. 1 was ever known or used by others in this country, or patented or described in a printed publication in this or a foreign country; nor has there been any showing that the depicted in Fig. 1 was ever in public use or on sale in this country more than one year prior to the date priority date afforded the present application; nor has there been any showing that the apparatus depicted in Fig. 1 was ever *made in this country* by another.

Accordingly, the Applicant respectfully declines to designate Fig. 1 by a legend such a --Prior Art--, and the Examiner's suggestion should be withdrawn.

Claims 1-4 were rejected under 35 U.S.C. §103(a), as rendered obvious and unpatentable, over "admitted prior art" in view of Norman (USP 6011802). The Applicant respectfully traverses

this rejection for the following reason(s).

The Examiner erroneously holds that the description in the specification from page 2, line 7 to page 4, line 3 is "admitted prior art."

Note on page 2, line 7, the specification states "an add/drop cross connection apparatus of an **exemplary** SDH system . . ." (emphasis added). Accordingly, the specification from page 2, line 7 to page 4, line 3 describes a model of an SDH system, **not** an SDH system known to exist in the art. The Applicant has never admitted the specification from page 2, line 7 to page 4, line 3 describes "prior art."

Additionally, the Examiner erroneously holds that the description Fig. 1 in the specification from page 6, line 4 to page 7, line 13 is "admitted prior art." There has been no showing, and the Applicant has never admitted, that Fig. 1 was ever known or used by others in this country, or patented or described in a printed publication in this or a foreign country; nor has there been any showing that the depicted in Fig. 1 was ever in public use or on sale in this country more than one year prior to the date priority date afforded the present application; nor has there been any showing that the apparatus depicted in Fig. 1 was ever *made in this country* by another.

Accordingly, because the rejection is erroneously based on presumed "admitted prior art," it is deemed to be in error and should be withdrawn.

Also, the Examiner erroneously holds that Norman discloses *a selector for selectively delivering the data supplied from said aggregate units, higher order tributary device, and lower order tributary device, wherein said selector delivers said data to said higher order path connection*

circuit or lower order path connection circuit according as said data is the higher or lower order path data as set forth in claim 1 (see the selector also set forth in claim 3).

Here, the Examiner refers us to Norman's Figs. 5-8, col. 10, line 59 to col. 14, line 30. More specifically, the Examiner discusses Norman's ITU interfaces 174 and 188 and erroneously holds that the signals "STM1 or E3" or "DS1" are from high order or low order tributary devices, and that ref. numbers 176, 180 and 186 are higher order and lower order path connection circuits.

First, not that Fig. 5 is directed towards a Synchronous optical network (SONET) not a synchronous digital hierarchy (SDH). Claims 1 and 3 of the present invention are directed towards a synchronous digital hierarchy (SDH) system, not a SONET system.

Fig. 7 in Norman is, however, directed towards a synchronous digital hierarchy (SDH) system.

With respect to Norman's Fig. 5, a "SONET CPE 162 receives a primary communication signal, such as a tributary communication signal, from a primary transmitter through a standard ITU [International Telecommunication Union] interface 174 and outputs the primary communication signal in a SONET communication signal. The standard ITU interface 174 provides connectivity to PDH communication signals. Preferably, the SONET CPE 162 can receive DS1, E1, and DS2 tributary signals."

With respect to Norman's Fig. 7, a SDH CPE 160 receives a primary communication signal, such as a tributary communication signal, through a standard ITU interface 188 and outputs the tributary communication signal in an SDH communication signal, such as the SDH communication signal 166 (see FIG. 4). The SDH CPE 160 can receive DS1, E1, DS2, and European level three (E3) communication tributary signals.

THERE IS NO description found in Norman supporting the Examiner's position that the signals "STM1 or E3" or "DS1" are from high order or low order tributary devices. Additionally, there is no description in Norman that the disclosed tributary devices are either high order or low order tributary devices. Instead, Norman merely refers to "tributary devices."

The only reference to "higher order" and "lower order" found in Norman is the discussion pertaining to "higher order path overhead" SO POH and "lower order path overhead" LO POH, especially with respect to a communication signals frame structure.

Clearly a frame of a communication signal is not provided via two separate signal paths from two separate higher order tributary and lower order tributary devices.

Additionally, there is no description found in Norman that discloses or teaches ITU interfaces 174 and 188 delivers data based upon whether the data is the higher or lower order path data. Claims 1 and 3 require that the selector operate to select a communication path *according as said data is the higher or lower order path data* (claim 1) and *based on whether said data is higher order path data or lower order path data* (claim 3).

Accordingly, the rejection of claims 1-4 is deemed to be in error and should be withdrawn.

New claims 5-15 are deemed to be allowable over the art of record for the same reasons as claims 1-4.

The Examiner is respectfully requested to reconsider the application, withdraw the objections and/or rejections and pass the application to issue in view of the above amendments and/or remarks.

Should a Petition for extension of time be required with the filing of this Amendment, the Commissioner is kindly requested to treat this paragraph as such a request and is authorized to charge Deposit Account No. 02-4943 of Applicant's undersigned attorney in the amount of the incurred fee if, **and only if**, a petition for extension of time be required **and** a check of the requisite amount is not enclosed.

Respectfully submitted,



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